Oregon

NEPA-Refinement Planning Process
Introduction and Narrative
June 1, 2000

Introduction: This document is designed to support the flow chart of the proposed NEPA-Refinement Planning Process. This process was adopted to move some NEPA processes and approvals into the Refinement Planning process in order to accomplish the following goals:

- Reduce public frustration with redundant processes by combining the alternative analysis and selection process required by both Refinement Planning and NEPA documentation into one process, rather than consecutive processes.
- Reduce regulating agency frustration by incorporating their concerns early in the process of planning and alternative consideration.
- Improve decision making during Refinement Planning by having the appropriate information available at the point of decision
- Improve ability to preserve corridors for future transportation development.
- Shorten overall time required to go from planning product to completed transportation facility.

The necessity to make changes in the traditional way that NEPA has been applied to ODOT projects is driven by the changes brought about by the Transportation Planning Rule. The requirement for Transportation System Plans and Corridor plans that are at a much greater detail level than traditional planning efforts has led naturally to the necessity of developing the information for those decisions to be sound. For example, since Threatened and Endangered species issues have become very significant throughout Oregon, planning facilities without data regarding their presence would be an exercise in frustration later in the development process. This is also true with many other resources. On the other hand, without formal NEPA documentation and approval, even the best analysis has no standing for federal purposes, until it has gone through the formal NEPA process.

In the previous ODOT process, this led to rather extensive analysis being done during the planning stage, to be followed by a reanalysis under the NEPA process of the same alternatives later during the project development stage. Naturally, this led to frustration on the part of the public that felt once was enough to make a decision.

ODOT has in the past chosen not to do NEPA analysis of planning decisions. The primary reason was cost and lack of resources. The NEPA analysis was thought to require extensive design detail, and down to the square foot analysis of impacted resources. Investment of such resources in projects that were several years away from funding was not an appropriate use of resources.

So what has changed? In the past, the NEPA document served as the document to determine purpose and need, modal choice, location of the facility, and design. Given all those decisions, and the desire to be in the position to immediately proceed to final design and construction, the greater level of detail was necessary. Planning decisions however, only really needs, with rare exception, a decision on the first three: purpose and need, mode and location. Design can wait until later. Only enough preliminary design to insure that there is some design that would be functional and buildable is required to make decisions. The change then, was to separate the location and design decisions in the NEPA document. The location decision will be made in the Refinement Plan/NEPA document. The design decisions will be made later during project development. This may require additional documentation, but not revisiting the decisions concerning purpose and need, mode and location.

By taking this approach, local government can bring closure to decisions about multiple alternative locations. They can select a location and move on with other land uses in locations that were discarded. And they can take steps to protect the selected location against inappropriate development through zoning and right-of-way acquisition at their discretion. Later, when funding becomes available, the design of the facility can be determined, and final mitigation planned and executed. It is probable that some further environmental documentation will be required at this point, whether it be in-depth research reports, or an Environmental Assessment, but the larger question of location of the facility should be sustainable unless dramatic changes have occurred that negate earlier decisions.

Our change of approach will also change our relationship with regulating agencies. They will be invited in early during the planning process, thereby being able to influence the direction of planning from its earliest decisions. The trade off will need to be a new approach to how resources are analyzed at this point in the process. Broad decisions will need to be made on less detail, saving the detail decisions for later when design detail is available. Because there has been no change in the laws under which these agencies operate, there will need to be negotiation with these agencies to give framework to the proposed process.

The end result that is desired from the new process is that planning and transportation decisions will be made with the appropriate level of information at each decision point. The decision process will be able to move smoothly to ever-narrower decisions without the necessity of revisiting earlier decisions. Once a decision is made regarding the location of a facility, that decision can be protected and relied upon in further planning. Decision making will be made in an atmosphere that best serves the public at large and the missions of the planning, transportation, and resources agencies that serve the public.

Narrative of Process Elements

1. **Refinement Planning Begins:** This process begins once the decision to do refinement planning on an element in a Corridor or Transportation System Plan is made. The process may also apply to pieces of a corridor. This decision is made by the planning agency that is responsible.
2. **Project Meets Test Criteria:** The proposed planning effort must meet Test Criteria regarding the applicability of NEPA in the particular planning situation. Applying NEPA is not appropriate for all Refinement Plan undertakings. Funding and commitment from the local government, or planning agent must be available to do a study in appropriate environmental depth. In addition, the following criteria should be applied to determine whether or not to proceed with NEPA as part of the planning effort. The project should meet at least one of the criteria:
    - A new alignment will be selected for one or several features in the refinement plan.
    - Rapid development is occurring in the area, making corridor preservation critical.
    - Issues needing resolution have a high priority and solutions are likely to be funded in the near future.
    - The corridor is very sensitive environmentally, and a strategy for the whole corridor needs to be approved before work on individual elements can commence.
    - Public pressure for a sustainable decision is high.

    Yes: If the project meets one or more of the criteria, it may proceed to **#3.**
    No: If the project does not meet the criteria, it would proceed to **#4a-4d.**

3. **Region Manager Approves Project for NEPA Study:**
    Yes: If the project is approved, it will be placed on the Planning Workplan or DSTIP (#4).
    No: If the project were not approved for NEPA treatment, it would proceed to #4a for a reconnaissance level of environmental analysis, and would wait to be funded for construction before proceeding with the NEPA process.
4. **Study Placed on Planning Workplan or DSTIP:** This step encompasses all the processes necessary to a project to be included in these documents. Opportunity to be included normally occurs every two years during the STIP update cycle.
5. **Part 3 Classification Document Prepared:** Part 3 is part of the normal Prospectus prepared for all DSTIP and STIP projects. This document determines the NEPA classification of the project, Class 1, 2, or 3, requiring an EIS, Categorical Exclusion, or Environmental Assessment. This document is required to gain FHWA concurrence on the NEPA classification of the project.
6. **FHWA Approves Classification of Project:** NEPA is a federal process required when there is or will be federal funds used in the development or construction of a project. Without FHWA approval, or some other federal agency approval, the NEPA document will have no standing.
7. **Project Team Formed for Environmental Analysis:** NEPA requires a multidisciplinary

team to evaluate the environmental aspects of a proposed project. Good planning and design also require the viewpoint of several professionals for a successful review of the proposal.

8. **Environmental Reconnaissance:** This is a first level of evaluation. Specialists in the various environmental disciplines evaluate the existing setting for the presence of sensitive or protected resources. If the resources exist, they will be mapped within the identified corridor of interest. Depending on the resource, rough calculations of quantity and quality will be made.
9. **Location Decision Only?:** A Decision is made on whether the study will be a Location only study. Traditionally, the NEPA document has decided both Location and Design. However in the proposed process, the team may determine that the study should be for Location determination only. This determination should be made on the basis of the time that will elapse between the study, and the ability to fund the identified project. If the project is likely to be designed and constructed within a very few years~5 or less~then it would be cost effective to follow the standard practice of developing the project with full design, and preparing a Location and Design NEPA document. If however, the project has not been identified for funding for the next 10 to 20 years, the project should definitely be developed only for location determination. Decisions for the 5 to 10 year range need to be closely evaluated by the team. In situations where proposed adjacent development requires more certainty of the future situation, it may be more appropriate to develop the project for both location and design, even when funding is not immediately available. There are circumstances where certainty helps reduce the expenditure of both public dollars and private investment dollars. This situation may also attract other funding sources so that the project can be advanced more quickly and originally anticipated.

   This decision also determines the level of engineering effort. (Refer to the Definition of Design Level of Effort.) A location decision will require one of the first two levels of effort—Planning-Corridor Design or Planning-Location Design. Project Location Design should only be applied if a precise location is required and the project is expected to advance to construction immediately.

10. **Request Liaison Person from Each Agency:** The Location only approach requires a unique approach from regulating agencies as well as from the planning and design staff. It is very important that regulating agencies be brought into the process early for their understanding of the approach and to determine what their expectations will be for eventual approval.
11. **Scoping meeting with Federal and State Agencies to Develop a Level of Effort Statement of Work, Sign Agreement:** This scoping meeting is in addition to the normal scoping meeting which ODOT would do during normal project development. The purpose of this scoping meeting (may require more than one) is to reach agreement on the level of effort in each discipline which will be expected to make the decision that is being sought—Location Only. It is important that any agreement between ODOT or a COG and various agencies result in some sort of signed

agreement stating the expected level of effort.

12. **Complete Draft Environmental Documentation:** This step encompasses more than the Draft Environmental Document. Alternative development and public involvement would be occurring during this stage. Concurrently, intensive environmental analysis would take place to guide the process. When all of this work is completed, a Draft Environmental Document would be completed describing all the alternatives still under consideration and their potential impacts. In a Location only document, these would be stated in ranges rather than in definitive measured units. The document may also employ "worst case" analysis to determine the limits of risk from the action.
13. **Finish Refinement Plan/Incorporate in Corridor Plan or TSP/ Amend Plan:** Following the release of the DEIS or EA, a hearing would be held to determine which alternative will be the selected. Before continuing, the Transportation Planning Rule and State Agency Coordination Agreement require that the planning process be completed—that necessary plan amendments and goal exceptions be taken prior to completion of the final environmental document.
14. **Complete the Final Environmental Document:** Once the land use actions are completed, the Final EIS or Revised EA can be completed. The final document focuses on the selected alternative.
15. **Location Approval from FHWA:** The FEIS or REA will be used to seek location approval from FHWA. If granted, the local jurisdiction could then acquire right-of-way, as desired, and would be eligible for federal participation in the land acquisition, or to use it as state match when the project eventually is funded.
16. **Prior to Funding, Review Every 3 Years for Validity, Purchase ROW as Necessary to Preserve Corridor:** To insure that the environmental documents remain current, the documents should be review every 3 years to determine if they are still valid. This serves as an early warning if conditions are threatening to change, and maintains awareness of commitments that may have been made during the study. ROW can be purchased judicially during this period.
17. **Project Included in the STIP:** This is the next logical step, but may not occur without a significant lapse between the study and funding availability.
18. **Review Environmental Document for Adequacy:** It is likely that under any scenario, the project will need further environmental work after it is included on the STIP for development. Only in the case where the resulting project is a Categorical Exclusion would it be likely that no further NEPA documentation would be necessary.

    No: If the documentation were not adequate to sustain the project through the design stage, the project would move to **Step 18a**.

    Yes: If the documentation in the previous NEPA document were deemed adequate to support both the location and design choice, the project would move to **Step 19**.
19. **Prepare Mitigation documentation as Necessary: Depending** on the project, the Project Plan, and Contract Plans will be developed at this time. If the project documentation were otherwise adequate, only Mitigation documentation and plans would be necessary at this stage.
20. **Permits:** Based on the mitigation documentation, wetlands permits and removal fill permits could be applied for at this time.

21. **Construction:** Though there are several more actual steps in the project development process, for our purposes all the environmental requirements would be met at this stage and the project could be let for construction.

4a. **Reconnaissance Level of Environmental Analysis:** Even if no NEPA document is planned for the immediate decision, in preparation for the eventuality of a NEPA document, a reconnaissance level of environmental analysis should be performed so that decision makers have the appropriate level of information during decision making. Resources that will require special treatment or avoidance should be identified and mapped. The early stages of alternative identification should also be done within a NEPA appropriate process.

4b. **Document Alternative Choice: Alternatives** which were under consideration but discarded and the alternatives that are being forwarded should all be documented with respect to which project criteria they did or didn't meet. The public involvement process used to reach decisions should be documented. Any environmental considerations used to eliminate or to forward various alternatives should also be documented.

4c. **Place the Resulting Alternative in the TSP or Corridor Plan:** The transportation feature resulting from this process would be placed in the Transportation System Plan or Corridor Plan and prioritized for future funding.

4d. **Prepare EIS or EA during Project Development:** Projects that follow this path would first have to achieve placement in the STIP. Once funded, they would follow the normal development process with confirmation of location and design achieved through the normal NEPA process. Depending on the time lapse between planning and development and the quality of the documentation in Step 4b, earlier decisions may be able to be carried forward into the NEPA document without being revisited. This is most true if the political consensus regarding which is the preferable course of action can be sustained during the time lapse between planning and funding. Projects developed on this path would be developed with a Project Location Design, a Project Plan, and then Contract Plans.

10a. Location and Design Decision: For some projects in the refinement planning stage, making a location and design decision may be appropriate. This is true if the project is expected to move immediately to a funded status. This usually occurs when the transportation issue has some urgency. Other issues may concern development that is being planned very near the proposed facility so that it is highly desirable to know more precisely where the project will be located. This allows other planning decisions to be made effectively and efficiently.

10b. Proceed with Normal Process and Level of Detail: The project would be developed with the level of design detail that would be considered normal for a funded STIP project. (Project Location Design)

10c. Complete Draft Environmental Documentation: A Draft EIS or EA would be prepared for the project.

10d. Finish Refinement Plan/ Incorporate in Corridor Plan or TSP/ Amend Comp Plan as Necessary: As required by the Transportation Planning Rule and State Agency Coordination Agreement, local comprehensive and transportation plans must be adopted or amended to include the new transportation proposal before the NEPA documentation can be completed.

10e. Complete Final EIS or REA: Completion of these documents would include mitigation commitments and conceptual plans. Final mitigation and permit application would take place once the project is funded and submitted for final design.

10f. Location and Design approval from FHWA: FHWA grants both location and design approval. Once the project is approved for funding, it can advance directly to the final design stages—Project Plan and Contract Plans.

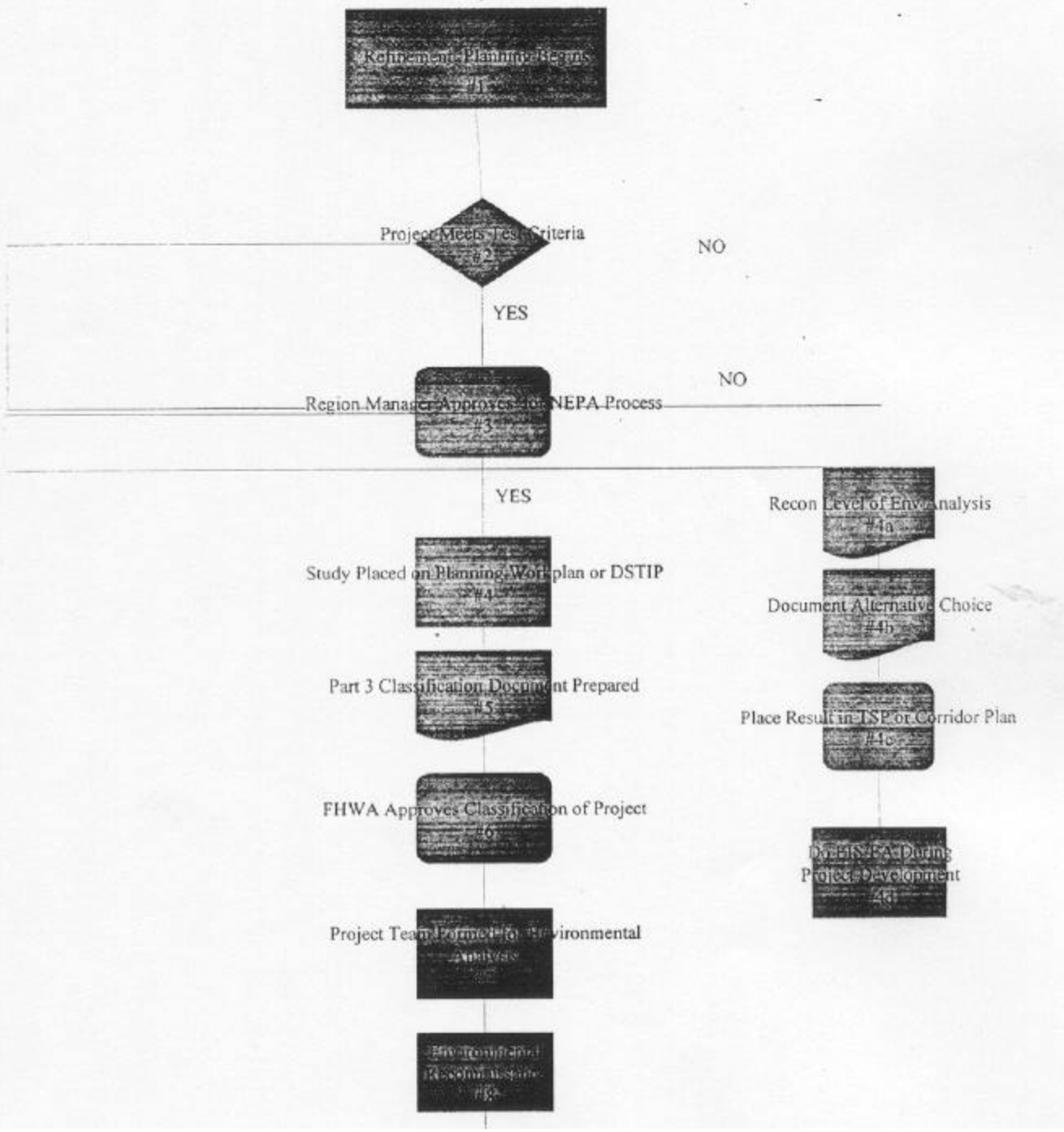
18a Develop Design Level Analysis: For projects where the NEPA work led only to a location decision, there may be more environmental documentation required during design phases. This will necessitate developing the alternative in more design depth, and an evaluation of the project with respect to the design or designs being considered.

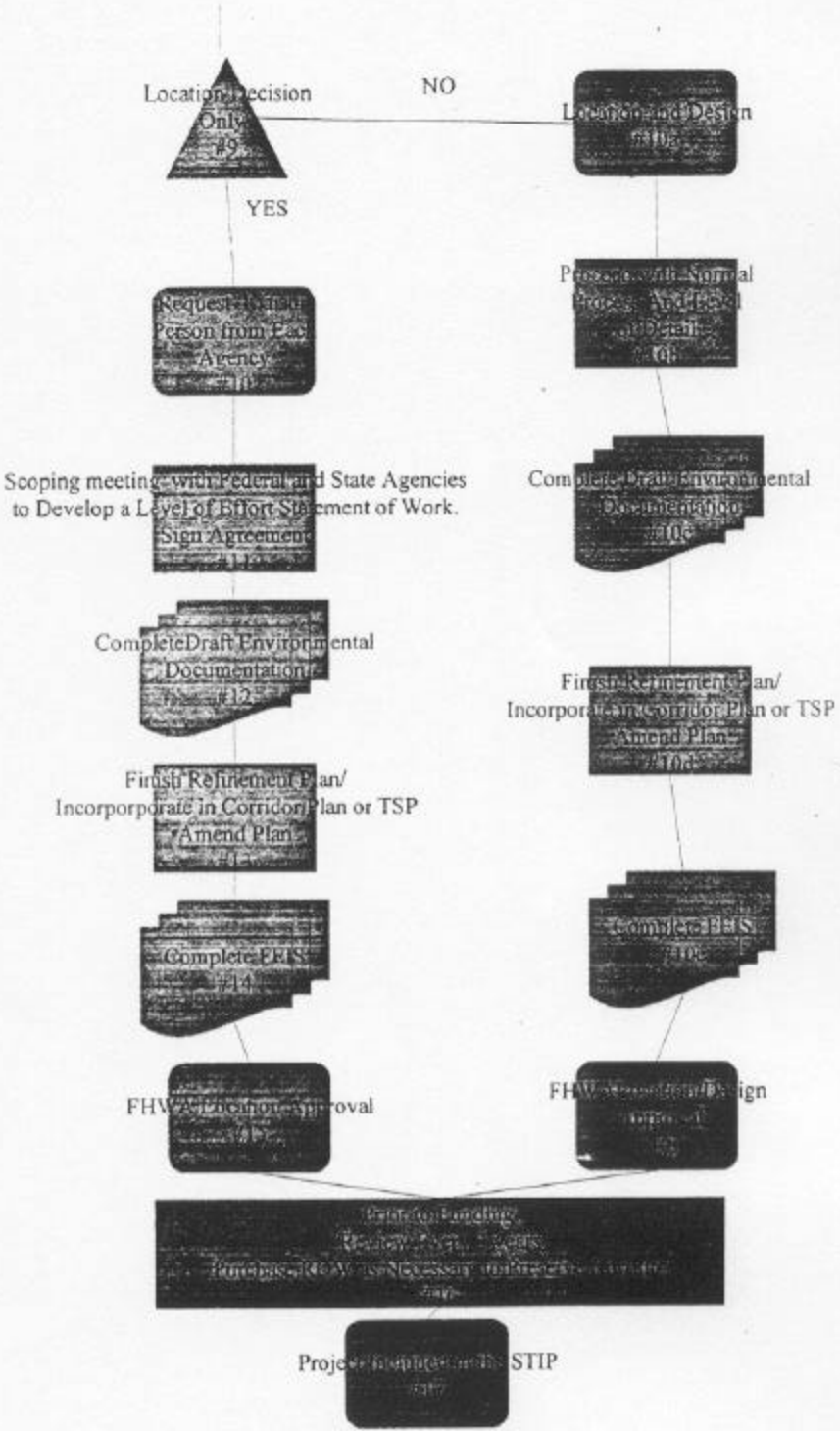
18b. Prepare the EA if Necessary: In most cases, only an EA would be required at this stage since the decision being considered is which design to pursue within the already approved location corridor. The impacts are likely to be more specific in this consideration, but the larger magnitude impacts would have already been avoided through the process of location selection.

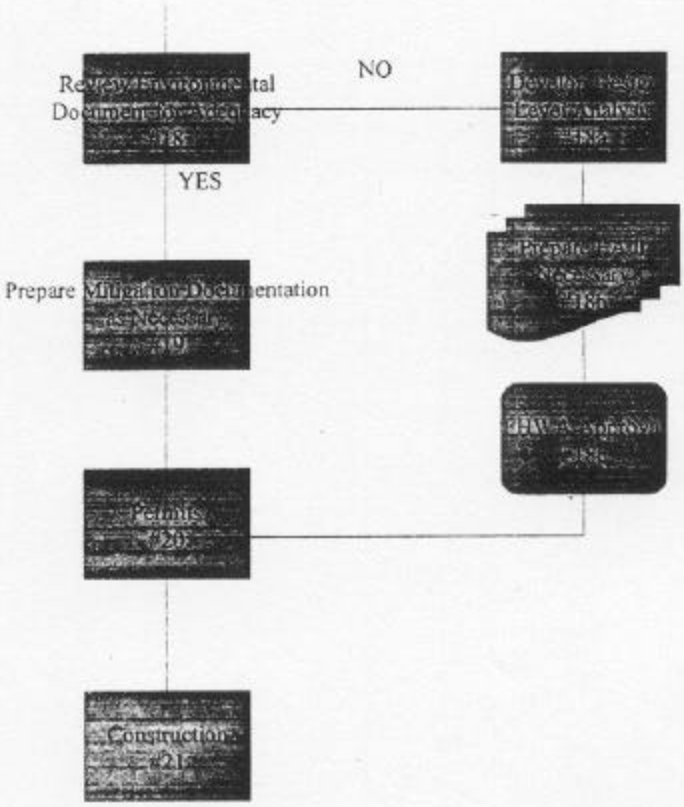
18c. FHWA Approval: FHWA approval of the EA or other environmental document would be required before the project could move into final design (Project Plan and Contract Plans), and construction.

Proposed NEPA-Refinement Planning Process

Mar 2, 2000




Location Decision Only #9
NO
YES
Request Liaison Person from Each Agency #10
Scoping meeting with Federal and State Agencies to Develop a Level of Effort Statement of Work. Sign Agreement #11
Complete Draft Environmental Documentation #12
Finish Refinement Plan/ Incorporate in Corridor Plan or TSP Amend Plan #13
Complete FEIS #14
Proceed with Normal Process And Level of Detail #8
Complete Draft Environmental Documentation #16
Finish Refinement Plan/ Incorporate in Corridor Plan or TSP Amend Plan #15
Complete FEIS #17
STIP


NO
YES
Prepare Mitigation Documentation
Permits
Construction

Definitions: Design Level of Effort

The purpose of this paper is to define the level of engineering design effort required to make decisions at various stages of planning and project development. Each level of effort is appropriate for certain circumstances. They vary in the level of commitment to "place" represented. In general, the greater the desired commitment of the department to a specific location and design, the greater the effort and level of precision that will required in the design work.

Planning –Corridor Design: The goal is to select among several broad corridors. An example of where this level of design would be appropriate would be Salem Third Bridge Corridor selection.

- Potential centerlines for theoretical alignments
- Conservative typical sections assumed, if any, general standard lanes assumed, Ex: 4 lanes with controlled median, no slopes.
- Analysis done on a swath of land (ex. 300 m swath), which might be variable depending on number and type of alternatives being considered.
- No survey, uses topographic maps.

Planning—Location Design: The goal is to select the location of a potential project for refinement plan purposes but not to develop final design level detail. There should be both enough flexibility to later move the alignment within the general location choice in response to specific new geologic, design, or environmental information, and enough commitment that limited protective right of way purchases could take place.

- Potential centerline
- Identify out to out, edge of pavement
- Very limited vertical control
- No survey, use of topographic maps
- Potential intersections defined
- Level of "footprint" accuracy is +/- 10 to 25 meters
- Discuss impacts in ranges
- The approximate nature of the engineering work should be documented

Planning Workplan or DSTIP

DSTIP

Project Location Design: The goal is to select among alternative locations for a project that is funded with the goal of continuing into final design and construction. Alignments will be used to determine the environmental impacts for projects seeking design approval.

- Proposed centerlines
- Out to out of pavement
- Approvals for needed exceptions
- Identify critical areas and fatal flaw areas for engineering purposes

- Base survey for base map, digital terrain models, actual field data
- Surveys in critical areas
- Some level of vertical control and precision (+/- 1 meter)

DSTIP

STIP

Project Plan (Engineering Concept Plan): Goal is to determine the horizontal and vertical alignment and toe of slope for the selected alternative to enable right-of-way acquisition for specific project needs. This is the design upon which the final plans will be based.

- Final alignment, but at 30% design completion
- Determines horizontal and vertical alignment
- Toe of slope determination
- Right of way descriptions can be determined
- Field survey and other field data required
- Level of Accuracy (+/- .01 m)

Contract Plans (PS&E): Final plans that will be submitted to contractor for bid purposes and construction.

- Final Contract Plans, Specifications and Estimates
- Exact Footprint and all design detail
- Level of Accuracy (+/- .001 m)

4/5/2000